

1 **The Law Office of**  
2 **LENNY RAPADAS, P.C.**

3 Suite 2A, 130 Aspinall Avenue  
4 Hagåtña, Guam 96910  
5 Telephone: (671) 477-9893  
6 Facsimile: (671) 472-2601

7 **Attorney for Plaintiff**

**FILED**  
DISTRICT COURT OF GUAM

JUN 23 2017 *hp6*

JEANNE G. QUINATA  
CLERK OF COURT

8 IN THE DISTRICT COURT OF GUAM

9 -----  
10 JOSHUA JOHN UNTALAN MESA,

11 Plaintiff,

12 vs.

13 GUAM INTERNATIONAL AIRPORT  
14 AUTHORITY, VINCENT R.Q. CASTRO  
and DOES 1 to 5,

15 Defendants.

CIVIL CASE NO. 17-00071

16 -----  
COMPLAINT

17 COME NOW, Plaintiff, Joshua John Untalan Mesa ("Plaintiff" or "Mesa"), by and  
18 through his attorney, Leonardo M. Rapadas, Esq., who pleads and respectfully brings his  
19 causes of action before this Court and alleges as follows:

20 I.

21 INTRODUCTION

22 1. This is an action for Constitutional violations and territorial law for personal  
23 and emotional injuries suffered by Plaintiff as a result of excessive force, unreasonable  
24 search and seizure and personal injury. Plaintiff brings this action for compensatory  
25 damages under 42 U.S.C. § 1983 because Defendants, Guam International Airport  
26 Authority ("GIAA") and Vincent R.Q. Castro ("Officer Castro"), jointly and severally,  
27 deprived Plaintiff of his federally-protected rights to be free from unreasonable seizure and  
28 unreasonable force under the United States Constitution, Amendments IV, XIV, as applied

1 to Guam through the Guam Organic Act.

2 2. As a direct result of the policies, practices, actions, customs and procedures  
3 of the Defendants, Plaintiff was intentionally deprived of his constitutional right to be free  
4 from unreasonable searches and seizures guaranteed to him by the Fourth Amendment  
5 to the United States Constitution. Officer Castro, a police officer acting in the course and  
6 scope of his employment with the GIAA, and acting under color of law, unjustifiably and  
7 unreasonably shot plaintiff under circumstances where no reasonable police officer would  
8 have done so. Under long established law on excessive deadly force, Officer Castro is not  
9 entitled to qualified or other immunity for these actions.

## 10 II.

### 11 JURISDICTION AND VENUE

12 3. This action is brought pursuant to 42 U.S.C. § 1983 and § 1988 and the  
13 Fourth Amendment to the United States Constitution, made applicable to Defendants  
14 through the Fourteenth Amendment to the United States Constitution and the Guam  
15 Organic Act. This Court has jurisdiction over Plaintiff's claim under 28 U.S.C. § 1331  
16 (federal question) and under 28 U.S.C. § 1343(3) (civil rights). This Court further has  
17 jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367 (supplemental  
18 jurisdiction) as those claims form part of the same case or controversy.

19 4. Venue lies in the District Court of Guam, the district in which the claim arises,  
20 pursuant to 28 U.S.C. § 1391(b).

## 21 III.

### 22 PARTIES

23 5. Plaintiff is over the legal age, is a citizen of the United States and at all times  
24 relevant herein resided in Guam.

25 6. Defendant GIAA is an autonomous agency of the territory of Guam operating  
26 pursuant to the laws of the Territory of Guam. GIAA may be served with process through  
27 the Executive Manager of the A.B. Won Pat International Airport.

28 7. Defendant Officer Castro is an individual residing in the Territory of Guam.

1 The acts and omissions complained of herein arise from the conduct of Defendant Officer  
2 Castro while he was acting under color of state law, and each act and omission was  
3 committed pursuant to Officer Castro's employment and authority as an Airport police  
4 officer with the GIAA.

5 8. Plaintiff does not know the true names of Defendant Does 1 through 5, and  
6 therefore sues them by fictitious names. The names, capacities and relationships of Does  
7 1 through 5 will be alleged by amendment to this Complaint when they are known.

8 9. Plaintiff is informed and believes, and on that basis alleges, that at all times  
9 mentioned in his Complaint, Defendant Does were the agents and/or employees of GIAA  
10 and, in doing the things alleged in the Complaint, were acting within the course and scope  
11 of employment of GIAA and/or authority vested therein.

#### 12 IV.

#### 13 FACTS

14 10. On June 15, 2016, Plaintiff was driving a motorcycle that had no license  
15 plates.

16 11. The GIAA Airport Police Division employed Officer Castro and Officer  
17 Cameron Chaco ("Officer Chaco") at all times relevant to this Complaint.

18 12. Officer Castro and Officer Chaco encountered the Plaintiff around noon time,  
19 on June 15, 2016, riding the motorcycle at the Home Depot parking lot in Tamuning. The  
20 Officers were in an official marked GIAA patrol vehicle.

21 13. The officers asked Mesa to turn off the motorcycle as they crossed paths but  
22 Mesa left the parking lot. The officers attempted to follow but lost sight of him after Mesa  
23 turned onto Marine Corp. Drive.

24 14. The officers illegally drove beyond their jurisdictional territory, traveling onto  
25 Harmon Metal Street, near Adrian Sanchez Street, also known as "Hamburger Road".  
26 That area is not within the Airport Police Division's primary jurisdiction, or its "expanded  
27 area."

28 15. The officers noticed Mesa stopped in a parking driveway and stopped their

1 vehicle at an angle to interfere with Mesa's exit.

2 16. Mesa drove out and around the officers' vehicle to leave the area. He did not  
3 speak to the officers, did not threaten the officers with his motorcycle, did not have a  
4 weapon, nor was he a threat to anyone else in the area.

5 17. Metal Road was heavily traveled by other vehicles on June 15, 2016, when  
6 the parties encountered each other.

7 18. After Mesa had passed the police vehicle and Officer Castro, Officer Castro  
8 shot him, striking him on his buttocks region. The gunshot caused Mesa to bleed and go  
9 numb, lose control of the motorcycle and crash on Hamburger Road. When Mesa  
10 crashed, the motorcycle struck a passing vehicle.

11 19. Prior to the shooting, neither officer was in any imminent danger from Mesa.  
12 Officer Chaco was inside the police vehicle and Officer Castro exited his vehicle. Mesa  
13 maneuvered the motorcycle around the police vehicle and proceeded the opposite way on  
14 Metal Road. The public was not in any imminent danger of injury by Mesa.

15 20. Mesa laid on the side of Adrian Sanchez Road and was not attended to or  
16 provided medical care by the Airport Officers.

17 21. As a result of being shot by Officer Castro, Plaintiff crashed the motorcycle,  
18 and suffered physical injuries and psychological trauma.

19 22. As he lay on the ground, Mesa feared he would be shot again. From his  
20 buttocks down, he felt numb and he could not move freely, nor feel his legs. Mesa initially  
21 thought he was paralyzed. As he lay there, Mesa heard one of the officers say, "Yeah par.  
22 I shot him. I shot his ass."

23 23. As a result of the wounds he suffered, Mesa was transported to Guam  
24 Memorial Hospital where he was admitted, treated and spent two days recovering.

25 24. After Mesa went past him, Officer Castro drew his weapon thereby violating  
26 GIAA Airport Police Divisional General Orders, Policies and Directives (D.G.O.) No. 09-  
27 005(V)(2).

28 25. When Officer Castro took aim as Plaintiff was driving away, pulled the trigger

1 and struck him, he violated D.G.O. No. 09-005(V)(6), (V)(7) and D.G.O. No. 09-005(X).

2 26. The officers were in no danger of serious bodily injury or death nor were  
3 members of the public in any similar danger. Officer Castro violated the Division's Use of  
4 Firearms Policy by shooting at Plaintiff for simply fleeing from the officers.

5 27. Officer Castro did not shoot to protect himself or the public. Officer Castro  
6 was not protecting third parties since shooting at a moving motorcycle would have  
7 endangered those persons.

8 28. Officer Castro fired his weapon at Plaintiff without justification.

9 29. Officer Castro's action of firing his weapon at a fleeing person violated peace  
10 officer Rules and Regulations of the Airport Police Division and Guam Police Department,  
11 decisions of the United States Supreme Court and Guam law.

12 30. GIAA Airport Police Division's General Orders, Policies and Directives  
13 ("D.G.O.") apply to Plaintiff's claims and the actions taken by the officers, namely:

14 a. D.G.O. No. 09-005(V)(2) – "No Airport Police personnel shall draw  
15 (exhibit) their firearm, unless the use of a firearm is justified to protect others or themselves  
16 from imminent danger, which may result in serious bodily injury or death;

17 b. D.G.O. No. 09-005(V)(6) – "Personnel **shall not** fire from or at a  
18 moving vehicle, as [it] greatly affects accuracy"; (emphasis added)

19 c. D.G.O. No. 09-005(V)(7) – "Personnel **shall not** fire at a 'fleeing  
20 felon"; (emphasis added)

21 d. D.G.O. No. 09-005(VIII)(C)(3) – "Personnel shall only **draw** their  
22 weapon from its holster to defend themselves or others from imminent danger, which could  
23 result in death or serious bodily injury"; (emphasis added)

24 e. D.G.O. No. 09-005(X) – "[T]he use of deadly force is authorized and  
25 justified **only as a last resort**, and only under certain circumstances", i.e., when it "is  
26 necessary to protect himself or others from imminent threat of death or serious bodily  
27 injury."; (emphasis added)

28 f. The GIAA's "Use of Firearms Policy" repeats the policies above



1 regarding use of deadly force, firing at a moving vehicle and fleeing felons, and specifically  
2 adds: "An officer/guard shall not fire at . . . [s]omeone who is called upon to halt upon mere  
3 suspicion and who is [sic] simply runs away to avoid arrest."; and

4 g. Guam Airport Division Directive No. AP-013-FY14 – **Jurisdiction**  
5 **restricted to certain roadways.** (emphasis added).

6 31. Under Guam law, the use of deadly force by the Airport officer without  
7 specified exemptions not applicable here, is prohibited pursuant to 9 GCA § 7.92(c) and  
8 (g).

9 32. The Guam Police Department ("GPD") has similar restrictions in the use of  
10 deadly force: "Deadly force may not be used . . . [o]n a person who has not caused or  
11 threatened to cause serious bodily injury or death to another person, including the officer;  
12 . . . [o]n a person who simply flees or evades arrest; . . . [a]t . . . a moving vehicle, except  
13 in *exigent circumstances*, and only in an attempt to save human life or protect the public;  
14 [or] [m]erely to prevent the . . . theft of property".

15 33. There was no justification or imminent threat or any objective reasonable  
16 rationale for the Airport Police Division officers to have violated federal and Guam laws,  
17 rules and regulations nor did Officer Castro have immunity permitting him to use deadly  
18 force in violation of Plaintiff's rights.

19 **V.**

20 **PLAINTIFF'S FIRST CLAIM:**

21 **CIVIL RIGHTS**

22 34. Plaintiff realleges each and every allegation contained in paragraphs 1  
23 through 33 of the Complaint.

24 35. The Civil Rights Act, codified as 42 U.S.C. § 1983, provides as follows:

25 Every person who, under color of any statute, ordinance,  
26 regulation, custom or usage, of any state or territory or the  
27 District of Columbia, subjects, or causes to be subjected, any  
28 citizen of the United States or any other person within the  
jurisdiction thereof to the deprivation of any laws, privileges or  
immunities secured by the Constitution and laws, shall be  
liable to the party injured in an action at law, suit in equity, or

1 other proper proceeding for redress. 42 U.S.C. § 1983.

2 36. Defendants, jointly and/or severally, deprived Plaintiff of his Fourth  
3 Amendment rights, and those rights, privileges, and immunities secured by the Fifth and  
4 Eighth Amendments to the Constitution as incorporated and applied to the territory through  
5 the Fourteenth Amendment and the Organic Act. Defendants violated Plaintiff's rights in  
6 the following ways:'

7 a. By using excessive and deadly force in the course of Officer Castro's  
8 attempt to seize the Plaintiff, in violation of the Fourth Amendment and its reasonableness  
9 standard.

10 b. Plaintiff was unlawfully shot. This action resulted directly and only from  
11 a use of force that was clearly excessive to the need, and was objectively and subjectively  
12 unreasonable; and

13 c. By failing to provide supervision and/or proper training to prevent such  
14 incidents of excessive force.

15 37. Defendant's violations of Plaintiff's constitutional rights resulted in Plaintiff's  
16 suffering and damages and were a direct cause of Plaintiff's injuries.

17 **VI.**

18 **PLAINTIFF'S SECOND CLAIM:**

19 **42 U.S.C. § 1983— PEACE OFFICER LIABILITY**

20 38. Plaintiff realleges each and every allegation contained in paragraphs 1  
21 through 37 of the Complaint.

22 39. Plaintiff brings a claim against Officer Castro, individually as well as in his  
23 official capacity, pursuant to 42 U.S.C. § 1983 and for punitive damages.

24 40. At all material times, Officer Castro was acting under color of state law as an  
25 agent and employee of Defendant GIAA. Officer Castro was wearing his official Guam  
26 Airport Police Department uniform, and was acting in the course and scope of his duties  
27 as an Airport Police Officer at the time he shot Plaintiff.

28 41. Force is excessive, and therefore violates the Fourth Amendment, if it is not

1 reasonable in light of the circumstances facing the officer. *See Graham v. Connor*, 490  
2 U.S. 386, 398 (1989). The facts and circumstances of this case show that Defendant  
3 Castro's act of shooting Plaintiff was clearly unreasonable.

4 42. At the time of the incident, Officer Castro had no reason to believe Mesa was  
5 armed or dangerous. Plaintiff made no violent movements towards Castro or any other  
6 person that could be interpreted as threatening. Plaintiff made no verbal threats to Officer  
7 Castro or any other person. Plaintiff did not touch Officer Castro. It was clear to Officer  
8 Castro that Plaintiff was unarmed and did not have any weapon or dangerous device  
9 readily at hand.

10 43. Officer Castro did not have a reasonable fear of imminent bodily harm when  
11 he shot plaintiff nor did Officer Castro have a reasonable belief that any other person was  
12 in danger of imminent bodily harm from Plaintiff. Consequently, shooting Plaintiff was  
13 unwarranted under these circumstances, and was objectively unreasonable when  
14 comparing or balancing the amount of force used against the need for the force.

15 44. By using subjectively and objectively unreasonable deadly force while acting  
16 under color of state law, Officer Castro violated Plaintiff's rights under the Fourth and  
17 Fourteenth Amendments to the United States Constitution and caused his wrongful death.

## 18 VII.

### 19 PLAINTIFF'S THIRD CLAIM:

#### 20 42 U.S.C. § 1983— AIRPORT LIABILITY

21 45. Plaintiff realleges each and every allegation contained in paragraphs 1  
22 through 44 of the Complaint.

23 46. Plaintiff's constitutional rights were violated when he was shot by Officer  
24 Castro. Plaintiff's injuries directly resulted from Officer Castro's excessive use of deadly  
25 force in shooting Plaintiff.

26 47. GIAA is liable under 42 U.S.C. § 1983 for failing to supervise and train its  
27 police officers, and for overlooking and covering up officer misconduct. GIAA's failure to  
28 supervise and train its police officers, and GIAA's willful blindness towards the



1 constitutional violations of its officers, constitute gross negligence and/or deliberate and  
2 conscious indifference to people's rights including the right to be free from unreasonable  
3 search and seizure and the rights conveyed to Plaintiff's under the Guam Organic Act as  
4 applied through 42 U.S.C. Sections 1983.

5 48. GIAA's formal and informal actions in overlooking, hiding and/or tacitly  
6 encouraging police misconduct through officers, reflect a policy, practice custom and  
7 procedure authorizing and allowing the use of excessive force that violated the civil rights  
8 of Plaintiff.

9 49. GIAA is liable for the constitutional torts of Officer Castro because GIAA  
10 sanctioned the following customs, practices, and policies:

11 a. Using excessive, deadly force, to carry out otherwise routine arrests  
12 or stops;

13 b. Using deadly force when such force was not necessary or permitted  
14 by law;

15 c. Ignoring the serious need for training and supervision of its officers in  
16 regard to the use of force and their jurisdictional coverage area;

17 d. Failing to discipline Officer Castro or find that he engaged in the use  
18 of excessive force;

19 e. Failing to adequately supervise and/or observe its officers;

20 f. Failing to adequately train officers regarding the availability of  
21 alternative means of detaining persons other than the use of force or deadly force.

22 g. Failing to discharge Officer Castro who has shown a pattern or  
23 practice of using excessive force in his employment and private life; and

24 h. Adopting a practice whereby officers who are unfit for peace officer  
25 duties, as shown by prior actions in or out of the line of duty, are allowed to retain their  
26 positions.

27 50. At the time Officer Castro shot Plaintiff, Officer Castro was acting pursuant  
28 to GIAA's official policy, practice, custom and procedure overlooking and/or authorizing

1 police officer's excessive use of force.

2 51. GIAA's employment policy, review and decisions in handling the hiring and  
3 promotion fo Officer Castro was a direct cause of Plaintiff's injuries. In particular, the policy  
4 caused Plaintiff to be deprived of his constitutional rights to be free from unlawful seizures  
5 and objectively unreasonable force under the Fourth and Fourteenth Amendments and had  
6 his rights taken from him as applied through 42 U.S.C. Section 1983.

7 **VIII.**

8 **PLAINTIFF'S FOURTH CLAIM:**

9 **GOVERNMENT CLAIMS ACT**

10 52. Plaintiff realleges each and every allegation contained in paragraphs 1  
11 through 51 of the Complaint.

12 53. Alternatively, as a pendent state cause of action, Plaintiff bring this action  
13 pursuant to the Guam Government Claims Act.

14 54. On or about August 14, 2015, pursuant to the Government Claims Act,  
15 Plaintiff filed a Claim Against the Government for the amount of Three Hundred Thousand  
16 Dollars.

17 55. On August 21, 2015, the Government of Guam disavowed any involvement  
18 on Plaintiff's Claim Against the Government because GIAA is an autonomous agency.

19 56. On October 22, 2015, GIAA denied Plaintiff's Claim.

20 57. Plaintiff has exhausted his administrative remedies.

21 58. GIAA has not paid any portions of the amount Plaintiff claims.

22 59. The shooting of Plaintiff was a direct and proximate result of the intentional,  
23 or in the alternative, negligence of Officer Castro and GIAA.

24 60. At all material times, Officer Castro was the agent and employee of the GIAA  
25 and was acting within the course and scope of his employment with the GIAA.

26 61. Defendant GIAA is liable for injuries suffered by Plaintiff proximately caused  
27 by Officer Castro's commission of a wrongful act in the course and scope of his  
28 employment through the use or misuse of tangible personal property; namely, Defendant

1 Castro's service weapon required by the GIAA.

2 62. Pursuant to the Government Claims Act, GIAA had actual notice of the  
3 events giving rise to this lawsuit within the six-month period following the unlawful shooting  
4 of Plaintiff and refused to engage Plaintiff or his counsel in any discussion of the Claims.

5 **IX.**

6 **PLAINTIFF'S FIFTH CLAIM:**

7 **ASSAULT**

8 63. Plaintiff realleges each and every allegation contained in paragraphs 1  
9 through 62 of the Complaint.

10 64. Under Guam law, a parallel cause of action for excessive force is a cause of  
11 action for assault and battery. Plaintiff alleges an alternative pendent territorial claim for  
12 assault and battery.

13 65. Officer Castro committed an assault upon Plaintiff when Officer Castro  
14 intentionally, knowingly, and/or recklessly caused Plaintiff to be shot. Officer Castro's  
15 assault conduct was committed intentionally, knowingly, and/or recklessly, and was the  
16 proximate cause of physical and emotional injuries to the Plaintiff. Said injuries were the  
17 direct and immediate consequence of Officer Castro's wrongful acts and a natural and  
18 direct result of the assault.

19 66. At no time was Officer Castro privileged to shoot Plaintiff, as lethal force was  
20 not necessary under the circumstances.

21 **X.**

22 **PLAINTIFF'S SIXTH CLAIM:**

23 **NEGLIGENCE**

24 67. Plaintiff realleges each and every allegation contained in paragraphs 1  
25 through 66 of the Complaint.

26 68. In the alternative, Plaintiff brings his claims of negligence against Defendants.

27 69. Defendants had a duty of due care and statutory and regulatory duties to  
28 Plaintiff as a citizen of Guam.

70. Defendants breached their duties to Plaintiff by shooting him from behind and failing to promptly administer medical care. Officer Castro chose instead to revel in and brag about shooting Plaintiff.

71. GIAA failed to properly investigate the shooting and condoned the actions of Officer Castro.

72. As a result fo Defendants' breaches, Plaintiff was hospitalized and suffered pain and suffering in an amount to be proven at trial.

**XI.**

**PLAINTIFF'S SEVENTH CLAIM:**

## NEGLIGENT HIRING, TRAINING AND RETENTION

**AND GROSS NEGLIGENCE**

73. Plaintiff realleges each and every allegation contained in paragraphs 1 through 72 of the Complaint.

74. An Agency may be held liable for its failure to train a single police officer when the officer's acts were so egregious that GIAA should have had clear warning that the particular officer posed a danger to citizens.

75. With respect to Officer Castro, the need for additional or different training was obvious. Defendant Castro had a history of unjustifiably and forcefully behaving with excessive force. Officer Castro has discharged his weapon in public in the past which was known or should have been known to GIAA. When it armed Officer Castro, GIAA knew or should have known that Officer Castro was likely to engage in other acts of excessive force. By promoting Officer Castro in the past and failing to discipline, supervise, or train Defendant Castro, GIAA authorized or ratified Officer Castro's wrongful acts both by acceptance of acts prior to and including those that caused Plaintiff's damages.

76. GIAA's acts and omissions, when viewed objectively, involved an extreme degree of risk, considering the probability and magnitude of harm to others. GIAA had actual, subjective awareness of the risks involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others including Plaintiff by

1 rearming Officer Castro.

2 77. Thus, in light of the particular risk posed by Officer Castro, GIAA's failure to  
3 train and supervise Castro constitutes gross negligence and/or deliberate and conscious  
4 indifference to the rights, safety, and welfare of others, including Plaintiff.

5 78. When GIAA hired Officer Castro to act as an Airport Policeman it knew of the  
6 magnitude of the risk involved in hiring Officer Castro as an Airport Policeman for the  
7 premises, but Defendant GIAA nonetheless proceeded to hire and train Officer Castro,  
8 acting with conscious indifference to the rights, safety, and welfare of others, including  
9 Plaintiff.

10 79. Defendant GIAA's negligence includes, but is not limited to, the following acts  
11 and omissions:

- 12 a. GIAA negligently hired Officer Castro, despite Defendants' knowledge  
13 that Officer Castro could harm the public;
- 14 b. GIAA failed to screen, or adequately screen, Castro;
- 15 c. GIAA failed to train, or adequately train, Castro;
- 16 d. GIAA failed to supervise, or adequately supervise, Castro; and
- 17 e. GIAA negligently retained Castro even though GIAA knew, or should  
18 have known, that Officer Castro posed a danger to the public.

19 80. Each of the above listed acts and/or omissions, taken singularly or in any  
20 combination, rise to the level of gross negligence.

21 81. GIAA's acts and omissions, when viewed objectively from the standpoint of  
22 the Officers at the time of its occurrence, involved indifference and an extreme degree of  
23 risk, considering the probability and magnitude of harm to others.

24 82. Defendant GIAA had actual, subjective awareness of the risks involved, but  
25 nevertheless proceeded with conscious indifference to the rights, safety, or welfare of  
26 others. Defendant GIAA was grossly negligent.

27 83. As a proximate result of the negligence and/or gross negligence of Defendant  
28 GIAA, Plaintiff suffered damages in an amount to be proven at trial

1 **XII.**

2 **RESPONDEAT SUPERIOR**

3 84. Plaintiff realleges each and every allegation contained in paragraphs 1  
4 through 83 of the Complaint.

5 85. At the time of the incident, Officer Castro was an employee, agent, and/or  
6 servant of Defendant GIAA acting within the employment with GIAA at the time of the  
7 shooting. As such, Defendant GIAA is responsible for the conduct of Officer Castro under  
8 the doctrine of respondeat superior due to the master-servant relationship which existed  
9 at the time of the shooting alleged herein.

10 **XIII.**

11 **DAMAGES**

12 86. Plaintiff realleges each and every allegation contained in paragraphs 1  
13 through 85 of the Complaint.

14 87. In his Claim Against the Government, Plaintiff sought Three Hundred  
15 Thousand (\$300,000.00) in damages. In addition to the damages mentioned in the  
16 preceding paragraphs as a direct and proximate result of the intentional, unlawful and/or  
17 negligent conduct of Defendants, Plaintiff has suffered, and in reasonable probability will  
18 continue to suffer damages.

19 88. In addition, Defendant Castro is liable for exemplary damages arising from  
20 his outrageous and malicious conduct and unjustifiable shooting of Plaintiff.

21 **XIV.**

22 **ATTORNEY'S FEES**

23 89. Plaintiff realleges each and every allegation contained in paragraphs 1  
24 through 88 of the Complaint.

25 90. Plaintiff is entitled to recover attorney's fees and costs as set forth in the Civil  
26 Rights Attorney's Fees Award Act of 1976. 49 U.S.C. § 1988. Plaintiff thereby requests  
27 that the Court and jury award him attorney's fees and expenses.

28 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

XV.

JURY DEMAND

91. Plaintiff realleges each and every allegation contained in paragraphs 1 through 90 of the Complaint.

92. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a jury trial.

WHEREFORE, Plaintiff respectfully request that Defendants be cited to appear and answer herein, that Plaintiff be granted judgment on his claims against Defendants, jointly and severally, for compensatory damages; exemplary damages; post-judgment interest, costs of court, attorney's fees and expenses and all other relief to which Plaintiff is justly entitled, at law or in equity.

**Respectfully submitted** this 22<sup>nd</sup> day of June, 2017.

The Law Office of  
LENNY RAPADAS, P.C.

By   
LEONARDO M. RAPADAS, ESQ.  
Attorney for Plaintiff